

1795.

For the defendants, it was urged, by *Dallas & Du Ponceau*, on the 1st point, that the Consular Convention extended to all *differences and suits* between *French* citizens; that a foreign attachment was, unquestionably, a suit; and that the difference, or suit, existing in the *United States*, it was not material, either to the words or spirit of the article, that both the parties should be actually resident within the *United States*. On the 2d point, it was answered, that the plaintiff necessarily remained a *French* citizen, 'till he renounced his allegiance, or had done some act incompatible with it;—that he was not a citizen of the *United States*; and unless he was a citizen of *France*, he exhibited the extraordinary spectacle of a human being who had no country!

BY THE COURT.—Many important topics have been discussed, in the course of this argument; but we do not think it necessary to decide on more than one of them. The sole question is—were both the plaintiff and the original defendants citizens of the *French Republic*, at the time of instituting this suit? We are clearly of opinion, from the facts disclosed in the affidavits which have been read, that the plaintiff was not then, nor is he now, a citizen of *France*. It is true, that he has not acquired the rights of citizenship here; nor, as it appears, in any other country: but, whatever may be the inconvenience of that situation, he had an undoubted right to dissent from the revolution; and, as a member of the minority, to refuse allegiance to the new government, and withdraw from the territory of *France*. Every thing that could be said or done to manifest such a determination, has been said and done by the plaintiff, except the act of becoming the subject, or citizen, of another country.

Let the rule be discharged.*

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HADDENS

* On the subject of the Consular Jurisdiction, I have been favored with a note of the following decision, taken from the Records of the Circuit Court for the District of *Massachusetts*, in *May Term 1792*.

VILLENEUVE versus BARRION.

IT was agreed by the parties to submit this question to the Court, to wit:—Whether the Convention gave to the *French* Consular cognizance of all differences and suits between *Frenchmen*; or confined the same to the description of cases therein enumerated, or other cases not arising from transactions in the *United States*? And, further, that if the Court should be of opinion, that the Consular Jurisdiction extends generally to all differences and suits between *Frenchmen*, that then the plaintiff shall discontinue the present action without costs.

THE COURT, after hearing the counsel of both sides, on the question proposed, were of opinion, that the Consular Jurisdiction does not extend generally to all differences and suits between *Frenchmen*.

The plaintiff, thereupon, prayed leave to discontinue his said action without costs; which being granted, he did discontinue accordingly.